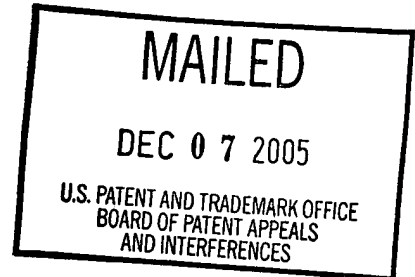


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID STRAND,
JOSEPH ANTOCCI,
PETER MYERS,
DAVID BARROW,
JOSEPH CEFAL
and TIM MYERS



Application No. 10/033,315

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 26, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On August 10, 2005, the examiner entered an Examiner's Answer in response to appellants Brief. However, a review of the file reveals that the Examiner's Answer provides no clear indication that an appeal conference was held because the

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examiner's answer contains only the typed names of the conferees (i.e., Jill Warden and Patrick Ryan). No signature or initialing by the conferees is present. The Manual of Patent Examining Procedure (MPEP) § 1208 clearly states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held. [Emphasis added.]

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Attention and correction is required pertaining to the missing conferee signatures in the Examiner's Answer.

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Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) provide sufficient proof that an appeal conference was held in accordance with the above instruction; and
- (2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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